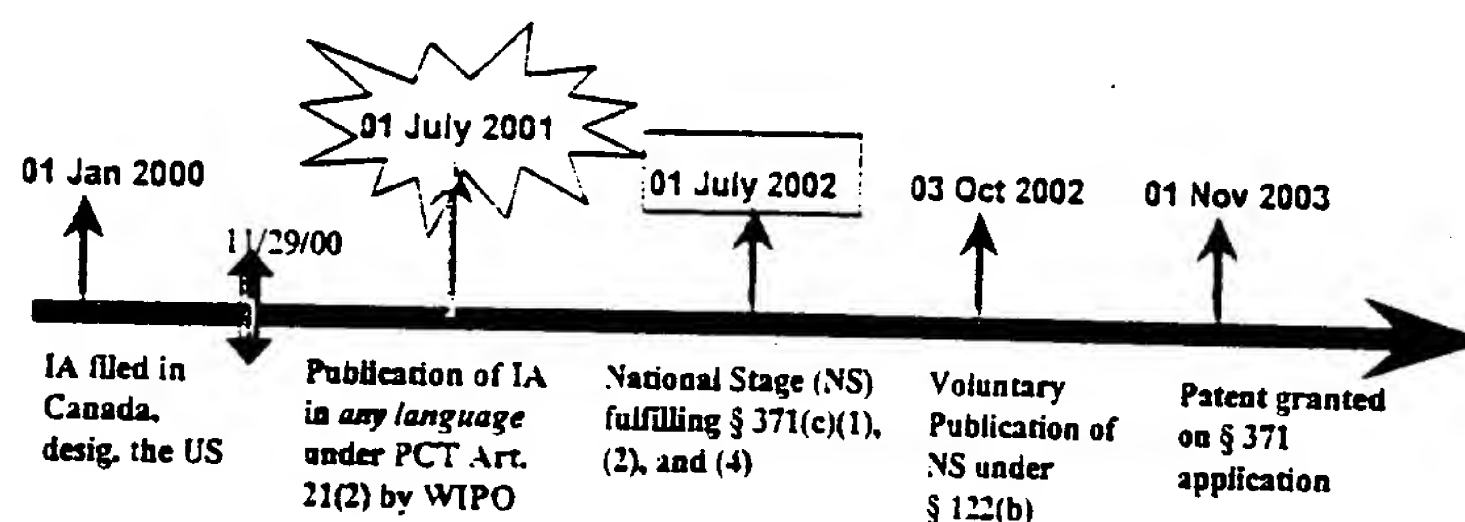


**Example 6: References based on the National Stage (§ 371) of an International Application filed prior to November 29, 2000 (language of the publication under PCT Article 21(2) is not relevant)**

The reference U.S. patent issued from an international application (IA) that was filed prior to November 29, 2000 has a § 102(e) prior art date of the date of fulfillment of the requirements of 35 U.S.C. § 371(c)(1), (2) and (4). This is the pre-AIPA § 102(e). The application publications, both the WIPO publication and the U.S. publication, published from an international application that was filed prior to November 29, 2000, do not have any § 102(e) prior art date. According to the effective date provisions as amended by H.R. 2215, the amendments to §§ 102(e) and 374 are not applicable to international applications having international filing dates prior to November 29, 2000. The application publications can be applied under § 102(a) or (b) as of their publication dates.



The § 102(e)(1) date for the IA publication by WIPO is: None

The § 102(e)(1) date for Publication by USPTO is: None

The § 102(e) date for the Patent is: 01 July 2002

The IA publication by WIPO can be applied under § 102(a) or (b) as of its publication date (01 July 2001).

Additional Priority/Benefit Claims:

- ✓ If the IA properly claimed priority/benefit to any earlier-filed U.S. application (whether provisional or nonprovisional), there would still be no § 102(e)(1) date for the U.S. and WIPO application publications, and the § 102(e) date for the patent will still be 01 July 2002 (the date of fulfillment of the requirements under § 371(c)(1), (2) and (4)).
- ✓ If a later-filed U.S. nonprovisional (§ 111(a)) application claimed the benefit of the IA in the example above, the § 102(e)(1) date of the application publication of later-filed U.S. application would be the actual filing date of the later-filed U.S. application, and § 102(e) date of the patent of the later-filed U.S. application would be 01 July 2002 (the date that the earlier-filed IA fulfilled the requirements of § 371(c)(1), (2) and (4)).
- ✓ If the patent was based on a later-filed U.S. application that claimed the benefit of the international application and the later filed U.S. application's filing date is

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Ex. P5A: **PATENT** DERIVED FROM THE NATIONAL STAGE OF AN IA  
WHICH CLAIMS PRIORITY OF A U.S. PROVISIONAL APPLICATION

Sample Patent – Guideline 5

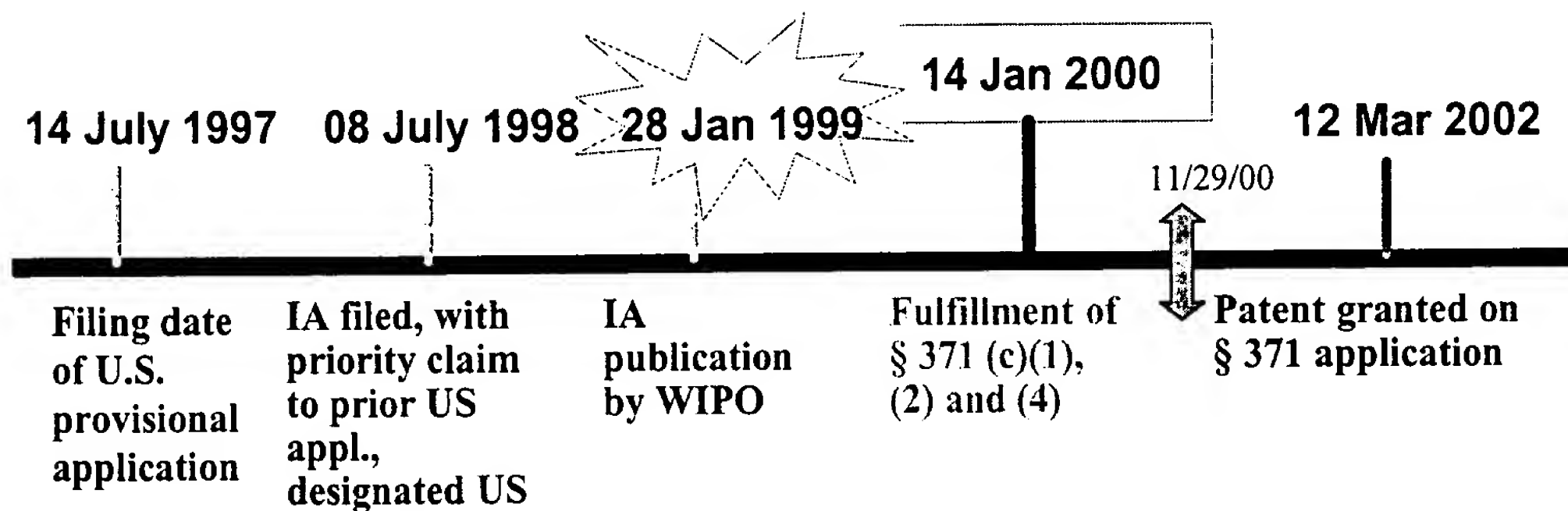
<b>United States Patent</b>		<b>Patent No.:</b> US 6,355,606 B1
(22) PCT Filed:	Jul. 8, 1998	<b>Date of Patent:</b> Mar. 12, 2002
(86) PCT No.:	PCT/US98/14056	IA filing date
§ 371 Date:	Jan. 14, 2000	Fulfillment of § 371 (c)(1)(2) & (4)
§ 102(e) Date:	Jan. 14, 2000	
(87) PCT Pub. No.:	WO99/03964	IA Publication by WIPO
PCT Pub. Date:	Jan. 28, 1999	
<b>Related U.S. Application Data</b>		
(60)	Provisional application No. 60/052,464, filed on Jul. 14, 1997.	§ 111(b) application filed

**§ 102(e) date of the patent: 14 Jan 2000**

If the U.S. patent issued from, or claims benefit to, an IA filed prior to Nov. 29, 2000, the date of such a prior art patent is the earlier of the date of compliance with § 371(c)(1), (2) and (4) (e.g. National Stage entry) or the filing date of the later-filed U.S. application that claimed the benefit of the international application.

**Ex. P5A: PATENT DERIVED FROM THE NATIONAL STAGE OF AN IA WHICH CLAIMS PRIORITY OF A U.S. PROVISIONAL APPLICATION**

**Sample Timeline – Guideline 5**



§ 102(e) date of the patent: 14 Jan 2000

Reason: based on former (Pre-AIPA) provisions of § 102(e)

**Notes:**

- 1) Patent cannot be applied as of the earlier filing date of the provisional application for prior art purposes.
- 2) Best prior art date - IA publication date under § 102(a) or (b): 28 Jan 1999.

November 14, 2002

§ 102(e) after HR 2215